

SENATE MOTION

MR. PRESIDENT:

I move that Engrossed House Bill 1001(ss) be amended to read as follows:

- 1 Page 141, between lines 38 and 39, begin a new paragraph and
- 2 insert:
- 3 "SECTION 119. IC 6-6-12 IS ADDED TO THE INDIANA CODE
- 4 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2002]:
- 6 **Chapter 12. County Motor Fuel Tax**
- 7 **Sec. 1. As used in this chapter, "department" refers to the**
- 8 **department of state revenue.**
- 9 **Sec. 2. As used in this chapter, "fiscal body" has the meaning set**
- 10 **forth in IC 36-1-2-6.**
- 11 **Sec. 3. Except as provided in this chapter, the definitions in**
- 12 **IC 6-6-1.1-103 and IC 6-6-2.5 apply throughout this chapter.**
- 13 **Sec. 4. (a) A county motor fuel tax council is established for each**
- 14 **county. The membership of each county motor fuel tax council**
- 15 **consists of the fiscal body of the county and the fiscal body of each**
- 16 **city or town that is located either partially or entirely within the**
- 17 **county.**
- 18 **(b) In the case of a city or town that is located within more than**
- 19 **one (1) county, the county auditor of each county shall base the**
- 20 **allocations required by subsection (c) on the population of that**
- 21 **part of the city or town that is located within the county where the**
- 22 **allocations are being made.**
- 23 **(c) Each county motor fuel tax council has a total of one**
- 24 **hundred (100) votes. Each member of the county motor fuel tax**
- 25 **council is allocated a percentage of the one hundred (100) votes**
- 26 **that may be cast. The percentage that a city or town is allocated for**
- 27 **a year equals the same percentage that the population of the city or**
- 28 **town bears to the population of the county. The percentage that the**
- 29 **county is allocated for a year equals the same percentage that the**

population of all areas in the county not located in a city or town bears to the population of the county. Before January 1 of each year, the county auditor shall certify to each member of the county motor fuel tax council the number of votes, rounded to the nearest one-hundredth (0.01), that each member of the county motor fuel tax council has for that year.

Sec. 5. (a) The county motor fuel tax may be imposed by the county motor fuel tax council on the sale within the county of:

- (1) gasoline subject to the gasoline tax under IC 6-6-1.1; and
- (2) special fuel that is subject to the special fuel tax under IC 6-6-2.5, including the placing of special fuel into the taxable storage facility of an authorized unlicensed user or an authorized unlicensed special fuel dealer.

(b) The county motor fuel tax may be imposed at a rate of one cent (\$0.01) for each gallon of gasoline and special fuel.

(c) Distributors, dealers, users, and all persons selling gasoline or special fuel must state the rate of the county motor fuel tax separately on every statement showing the price of gasoline or special fuel.

Sec. 6. (a) To impose the county motor fuel tax, a county motor fuel tax council must:

- (1) use the procedures established in IC 6-3.5-6 for imposing the county option income tax; and
- (2) after January 1 but before April 1 of the year the tax will be effective, pass a recommendation regarding the imposition of the county motor fuel tax in a form that substantially states the following:

"We recommend that the county motor fuel tax be imposed at a rate of one cent (\$0.01) for each gallon of gasoline and special fuel sold within _____ County. This tax takes effect July 1 of this year."

(b) A recommendation by the county motor fuel tax council must be adopted by ordinance by the county fiscal body before the tax may take effect. If a recommendation by a county motor fuel tax council is not adopted by ordinance by the county fiscal body before July 1, that particular recommendation for the ordinance expires.

(c) The county auditor shall record all votes taken by the fiscal body regarding ordinances under this chapter and shall immediately certify the results to the department.

(d) An ordinance under this chapter adopted by the county fiscal body takes effect July 1 of the year the ordinance is adopted.

Sec. 7. Except as permitted by this chapter, a city, town, county, township, or municipal corporation may not impose:

- (1) an excise tax on or measured by the sale, receipt, distribution, or use of gasoline; or
- (2) an excise, a privilege, or an occupational tax on the business of manufacturing, selling, or distributing gasoline.

1 **Sec. 8. (a) The county motor fuel tax council may recommend**
2 **rescinding the county motor fuel tax rate. To rescind the county**
3 **motor fuel tax rate the county motor fuel tax council must, after**
4 **January 1 but before April 1, adopt a resolution that substantially**
5 **states the following:**

6 **"We recommend the county motor fuel tax rate be rescinded**
7 **within _____ County effective July 1 of this year.".**

8 **(b) A recommendation by the county motor fuel tax council**
9 **must be adopted by ordinance by the county fiscal body before the**
10 **rescission may take effect. If a recommendation by a county motor**
11 **fuel tax council is not adopted by ordinance by the county fiscal**
12 **body before July 1, that particular recommendation for the**
13 **ordinance expires.**

14 **(c) The auditor of a county shall record all votes taken by the**
15 **fiscal body regarding ordinances under this chapter and shall**
16 **immediately certify the results to the department.**

17 **(d) An ordinance under this chapter adopted by the county**
18 **fiscal body takes effect July 1 of the year the ordinance is adopted.**

19 **Sec. 9. (a) A person that purchases gasoline shall initially pay**
20 **the tax on the billed gallonage of all gasoline the person receives in**
21 **the county. The person shall then add the per gallon amount of tax**
22 **to the selling price of each gallon of gasoline sold in this state and**
23 **collected from the purchaser so that the ultimate consumer bears**
24 **the burden of the tax.**

25 **(b) A person required to pay special fuel taxes under IC 6-6-2.5**
26 **shall remit the tax due under this chapter for taxable special fuel**
27 **that is purchased in a county that has imposed the county motor**
28 **fuel tax.**

29 **Sec. 10. A person desiring to receive gasoline within a county**
30 **with a county motor vehicle fuel tax without paying gasoline tax to**
31 **the supplier must hold an uncanceled license under IC 6-6-1.1**
32 **issued by the administrator to do business as a distributor. For**
33 **purposes of this chapter, "supplier" means a distributor or person**
34 **who sells gasoline.**

35 **Sec. 11. To determine a person's tax liability under this chapter,**
36 **the person shall file a sworn report with the administrator by the**
37 **twentieth day of each calendar month that includes an itemized**
38 **statement of the number of invoiced gallons of gasoline or special**
39 **fuel received by the person in each county with a county motor**
40 **vehicle fuel tax.**

41 **Sec. 12. At the time of filing each monthly report, each person**
42 **shall pay to the department the full amount of tax due under this**
43 **chapter for the preceding calendar month. The payment must be**
44 **included with the payment of gasoline taxes under IC 6-6-1.1 or**
45 **special fuel taxes under IC 6-6-2.5.**

46 **Sec. 13. Every person other than a licensed distributor who**
47 **purchases or otherwise acquires taxable gasoline and unknowingly**
48 **fails to pay the gasoline tax to either a licensed Indiana distributor**

1 or Indiana dealer shall make the same reports and payment
2 required of distributors under this chapter. However, the person
3 is not entitled to deductions or credits.

4 Sec. 14. Until a person pays to the department the county motor
5 fuel tax on gasoline or special fuel the person receives, the tax
6 money collected is state money. A person who collects the tax shall
7 hold it in trust for the state and for payment to the department as
8 provided in this chapter. In the case of a corporate or partnership
9 distributor, every officer, employee, or member of the employer
10 who in that capacity is under a duty to collect the tax is personally
11 liable for the tax, penalty, and interest.

12 Sec. 15. (a) Notwithstanding any other law, a special fuel user
13 may pay the tax imposed by this chapter to the user's supplier if:

- 14 (1) the supplier is a licensed special fuel dealer; and
15 (2) the special fuel user, supplier, and administrator enter into
16 a written agreement authorizing payment of the tax in that
17 manner.

18 (b) A special fuel dealer may pay the tax imposed by this
19 chapter to the dealer's supplier if the:

- 20 (1) supplier is a licensed special fuel dealer;
21 (2) special fuel dealer has not more than two (2) taxable
22 special fuel pumps at any business location; and
23 (3) special fuel dealer, supplier, and administrator enter into
24 a written agreement authorizing payment of the tax in that
25 manner.

26 (c) Upon agreement under this section, the administrator shall
27 notify concerned parties in writing of the authorization granted.

28 (d) Authorizations under this section are effective upon the date
29 determined by the administrator.

30 (e) All taxes due and payable before the effective date of an
31 agreement must be paid in full before the effective date of the
32 agreement under this section.

33 (f) A party to an agreement under this section may terminate
34 the agreement with thirty (30) days written notice to the other
35 parties.

36 (g) A separate agreement is necessary for each supplier to whom
37 the tax will be paid under this section.

38 (h) A person that pays taxes under this section does not have to
39 file the monthly reports under section 11 of this chapter.

40 Sec. 16. (a) There is established in the state general fund a
41 county motor fuel tax account for each county that adopts a county
42 motor fuel tax.

43 (b) Revenue generated by the county motor fuel tax from each
44 county that adopts the tax must be placed into that county's motor
45 fuel tax account in the state general fund.

46 (c) Income earned on each county motor fuel tax account
47 becomes a part of that account.

48 (d) The money in the county motor fuel tax account does not

1 revert to the state general fund.

2 **Sec. 17. (a)** Revenue derived from the imposition of the county
3 motor fuel tax shall, in the manner prescribed by this section, be
4 distributed to the county that imposed the tax. The amount that is
5 to be distributed to a county during an ensuing calendar year
6 equals the amount of county motor fuel tax revenue that the
7 department, after reviewing the recommendation of the budget
8 agency, estimates will be received from that county during the
9 twelve (12) month period beginning July 1 of the immediately
10 preceding calendar year and ending June 30 of the ensuing
11 calendar year.

12 **(b)** Before June 16 of each calendar year, the department, after
13 reviewing the recommendation of the budget agency, shall estimate
14 and certify to the county auditor of each adopting county the
15 amount of county motor fuel tax revenue that will be collected
16 from that county during the twelve (12) month period beginning
17 July 1 of that calendar year and ending June 30 of the immediately
18 succeeding calendar year. The amount certified is the county's
19 "certified distribution" for the immediately succeeding calendar
20 year. The amount certified may be adjusted under subsection (c)
21 or (d).

22 **(c)** The department may certify to an adopting county an
23 amount that is greater than the estimated twelve (12) month
24 revenue collection if the department, after reviewing the
25 recommendation of the budget agency, determines that there will
26 be a greater amount of revenue available for distribution from the
27 county's account established under section 16 of this chapter.

28 **(d)** The department may certify an amount less than the
29 estimated twelve (12) month revenue collection if the department,
30 after reviewing the recommendation of the budget agency,
31 determines that a part of those collections needs to be distributed
32 during the current calendar year so that the county will receive its
33 full certified distribution for the current calendar year.

34 **(e)** One-twelfth (1/12) of each adopting county's certified
35 distribution for a calendar year shall be distributed from its
36 account established under section 16 of this chapter to the
37 appropriate county treasurer on the first day of each month of that
38 calendar year.

39 **(f)** Upon receipt, each monthly payment of a county's certified
40 distribution shall be allocated among, distributed to, and used by
41 the county, cities in the county, and towns in the county as
42 provided in sections 18 and 19 of this chapter.

43 **(g)** All distributions from an account established under section
44 16 of this chapter shall be made by warrants issued by the auditor
45 of state to the treasurer of state ordering the appropriate
46 payments.

47 **Sec. 18. (a)** The certified distributions received by the county
48 must be distributed by the county auditor as follows:

(1) Seventy-five percent (75%) of the certified distribution must be distributed as follows:

(A) Thirty-two percent (32%) of the amount is to be divided among the cities and towns in the county according to the population of the city or town in relation to the county population.

(B) Sixty-eight percent (68%) of the amount is for the county.

(2) Twenty-five percent (25%) of the certified distribution must be distributed in the same manner as money from the local road and street account is allocated to the county under IC 8-14-2.

(b) The Indiana department of transportation must provide each county with the fractional amount of the distribution the county is entitled to receive under subsection (a)(2).

(c) Distributions received by a county, city, or town under this section must be deposited into the motor fuel tax fund established in the particular unit.

Sec. 19. Revenues from the motor fuel tax fund may be used as follows:

(1) The money distributed to cities and towns must be annually budgeted as required by law and may only be used:

(A) for the maintenance and improvement of:

(i) streets;

(ii) roads; and

(iii) alleys; or

(B) to pay for public safety, including salaries for public safety officials.

(2) The money distributed to counties must be annually budgeted as required by law and may only be used:

(A) for the maintenance and improvement of:

(i) county highways; or

(ii) bridges on county highways; or

(B) to pay for public safety, including salaries for public safety officials.

Sec. 20. Except as provided in this chapter, the provisions of IC 6-6-1.1 and IC 6-6-2.5 concerning:

(1) definitions;

(2) filing of reports or returns;

(3) shrinkage allowances and remittances;

(4) penalties and interest; and

(5) refunds;

apply to the imposition, collection, and administration of the tax imposed by this chapter.

Sec. 21. Before February 1 of each year, the department shall submit a report to each county that has adopted a tax under this chapter indicating the amount credited to the county's motor fuel tax account during the preceding year."

Page 148, between lines 38 and 39, begin a new paragraph and insert:

"SECTION 129. IC 8-14-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 4. (a) The auditor of state shall establish a special account to be called the "local road and street account" and credit this account monthly with forty-five percent (45%) of the money deposited in the highway road and street fund.

(b) The auditor shall distribute:

(1) to units of local government **in each county** money from ~~this the local road and street~~ account each month; **and**

(2) to units of local government **in a county that has adopted a county motor fuel tax under IC 6-6-12 the portion of the certified distribution under IC 6-6-12-18(a)(2) from the county motor fuel tax account in the state general fund for that particular county.**

(c) The auditor of state shall allocate to ~~each~~ **the appropriate** county the money in ~~this account~~ **subsection (b)** on the basis of the ratio of each county's passenger car registrations to the total passenger car registrations of the state. The auditor shall further determine the suballocation between the county and the cities within the county as follows:

(1) In counties having a population of more than fifty thousand (50,000), sixty percent (60%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and forty percent (40%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(2) In counties having a population of fifty thousand (50,000) or less, twenty percent (20%) of the money shall be distributed on the basis of the population of the city or town as a percentage of the total population of the county and eighty percent (80%) distributed on the basis of the ratio of city and town street mileage to county road mileage.

(3) For the purposes of allocating funds as provided in this section, towns which become incorporated as a town between the effective dates of decennial censuses shall be eligible for allocations upon the effectiveness of a corrected population count for the town under IC 1-1-3.5.

(4) Money allocated under the provisions of this section to counties containing a consolidated city shall be credited or allocated to the department of transportation of the consolidated city.

- 1 (d) Each month the auditor of state shall inform the department of
- 2 the amounts allocated to each unit of local government from the local
- 3 road and street account."
- 4 Renumber all SECTIONS consecutively.
(Reference is to EHB 1001(ss) as printed June 13, 2002.)

Senator MEEKS C